

RON BENDER (SBN 143364)
KRIKOR J. MESHEFEJIAN (SBN 255030)
LINDSEY L. SMITH (SBN 265401)
LEVENE, NEALE, BENDER, YOO & GOLUBCHIK L.L.P.
2818 La Cienega Avenue
Los Angeles, California 90034
Telephone: (310) 229-1234; Facsimile: (310) 229-1244
Email: RB@LNBYG.COM; KJM@LNBYG.COM; LLS@LNBYG.COM

Proposed Attorneys for Chapter 11 Debtors
and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA DIVISION**

In re:

TRX HOLDCO, LLC, a Delaware limited
liability company,

Debtor and Debtor in Possession.

In re:

FITNESS ANYWHERE LLC, a Delaware
limited liability company, dba TRX and TRX
Training,

Debtor and Debtor in Possession.

☒ Affects both Debtors

☐ Affects TRX Holdco, LLC only

☐ Affects Fitness Anywhere, LLC only

Lead Case No.: 8:22-bk-10948-SC

Jointly administered with:
8:22-bk-10949-SC

Chapter 11 Cases

**DECLARATION OF BRENT LEFFEL
IN SUPPORT OF DEBTORS'
EMERGENCY MOTION FOR ENTRY
OF AN INTERIM ORDER: (I)
AUTHORIZING THE DEBTORS TO
UTILIZE CASH COLLATERAL
PURSUANT TO 11 U.S.C. §§ 361, 362
AND 363; (II) GRANTING
ADEQUATE PROTECTION; (III)
SCHEDULING A FINAL HEARING
PURSUANT TO BANKRUPTCY
RULE 4001(b); AND (IV) GRANTING
RELATED RELIEF**

DATE: June 10, 2022

TIME: 10:00 a.m.

PLACE: *Via ZoomGov

Courtroom 5C

411 West Fourth Street

Santa Ana, CA 92701

1 I, Brent Leffel, hereby declare under penalty of perjury as follows:

2 1. I am the Chairman of the Board of Managers of TRX Holdco, LLC (“Hold Co”)
3 and the Chairman of the Board of Managers of Fitness Anywhere LLC, dba TRX and TRX
4 Training (“Product Co” and together with Hold Co and Product Co, the “Debtors”), the debtors
5 and debtors-in-possession in the above-captioned Chapter 11 bankruptcy cases. I am also the co-
6 manager of Equity 38, LLC which is the manager of Equity 38 Investment Platform I, LLC.
7 Equity 38 Investment Platform I, LLC is the manager of E38-TRX, LLC and E38-TRX Holdco
8 Investments, LLC which collectively own and control Hold Co.

9 2. Hold Co holds a preferential and controlling interest in Product Co. Hold Co also
10 wholly owns TRXperience, LLC (“Experience Co”). Experience Co has not filed a bankruptcy
11 case. Product Co wholly owns Fitness Anywhere International LLC (100% by Product Co) and
12 Fitness Anywhere Europe Cooperatief U.A. Netherlands (99% by Product Co and 1% by Fitness
13 Anywhere International LLC), none of which have filed a bankruptcy case.

14 3. I served as the Co-Chairman of Product Co from approximately December 2018
15 through October 2020, after which I became the sole Chairman of Product Co. I have been the
16 Chairman of Hold Co since Hold Co’s formation in approximately March 2020. I also served as
17 Chief Executive Officer from approximately April 2021 through the end of January 2022.

18 4. In my capacity as Chairman, I am involved with policy and strategic decisions on
19 behalf of the Debtors. The Chief Executive Officer of the Debtors reports to me and he
20 implements the directives and policies of the Debtors as established by the Debtors’ respective
21 Board of Managers (which I chair). I have personal knowledge of the facts set forth in this
22 Declaration and if called as a witness, could and would testify competently with respect thereof.

23 5. I make this Declaration in support of the Debtors’ emergency motion for the entry
24 of an order authorizing the Debtors to use cash collateral and related relief.

25 6. The Debtors and their respective subsidiaries (collectively referred to herein as
26 “TRX”) comprise a world leading functional fitness company. Since being founded in 2004,
27 TRX has evolved into a digitally-enabled, vertically integrated, omni-channel fitness lifestyle
28 brand with global reach powered by a large community of consumer and trainer enthusiasts.

1 TRX's flagship and patented product - Suspension Trainer™ - is a highly versatile, portable,
2 compact and affordable fitness and training device/workout tool with broad reach across
3 demographic groups and fitness levels, which can be utilized effectively across fitness
4 modalities. TRX offers a full line of functional training tools and accessories to complement the
5 Suspension Trainer™ to serve all types of functional needs, from at-home essentials to complete
6 gym installations. TRX also launched in 2021 a purpose-built digital subscription-based
7 platform - the TRX Training Club® - that offers a library of on-demand videos and daily live
8 classes.

9 7. TRX enjoys a strong origin story (the first version of the Suspension Trainer™
10 was created in 1997 by Randy Hetrick, the founder of TRX), significant brand recognition and
11 intellectual property protections around its flagship product Suspension Trainer™, which is
12 distributed in over thirty (30) countries through commercial channels (gyms and vertical
13 markets) and consumer markets (including through its direct-to-consumer platform
14 www.TRXtraining.com in the United States and United Kingdom, Amazon, and other retailers).

15 8. From 2004 through 2013, Mr. Hetrick launched and commercialized TRX,
16 building a loyal community of trainers and market penetration in gyms. From 2014 to 2018, the
17 TRX business matured after receiving a growth capital investment. In late 2018, an investor
18 group led by Equity 38, LLC acquired the business in a highly structured transaction which
19 included a credit facility with Woodforest National Bank (the "Bank") alongside an equity
20 investment and rollover investment from the previous investors, and, in 2019, various
21 operational improvement initiatives were implemented to restructure the business. By the end of
22 2019, the business required a capital infusion to reset its credit facility with the Bank and also
23 secure operating capital to execute on a strategy which incorporated the pursuit of digital
24 initiatives to broaden the company's revenue opportunities beyond sales of its flagship product.

25 9. In March 2020, Hold Co was formed and additional equity capital was invested
26 by existing and new investors in a further recapitalization of TRX. A portion of such proceeds
27 were invested in Product Co to repay senior debt and provide working capital financing, and the
28 balance remained at Hold Co to fund growth initiatives such as digital. After giving effect to the

1 March 2020 recapitalization, Hold Co held a preferential and controlling interest in Product Co,
2 and also became a guarantor of the credit facility. Hold Co also owns 100% of the interests of
3 Experience Co, an entity that was formed at the time of the recapitalization for purposes of
4 housing TRX's digital platform services that were beginning to be developed and for its
5 educational services and offerings through which TRX has qualified training professionals on
6 suspension training/functional training techniques and programming. While the different entities
7 were established to allow for a segregation of the equity investment made in the recapitalization
8 and to limit dilution to legacy shareholders, TRX has operated as one identifiable brand in the
9 market, and through intercompany agreements, including a management services agreement
10 between Hold Co and Product Co wherein Hold Co provides the services of executive
11 management that oversee the entire TRX enterprise, it also effectively operates as a consolidated
12 business.

13 10. In 2019, the Debtors generated approximately \$51 million in revenue. In 2020,
14 the Debtors formulated a digital strategy with outside consultants while experiencing COVID-
15 driven revenue growth, to approximately \$85 million. In 2021, the Debtors executed and
16 invested in a number of initiatives focused on digital and marketing, hiring executives in key
17 roles while building a significant inventory position, and navigating through a rapidly changing
18 macro environment, and generated approximately \$62 million in sales.

19 11. Despite the development and success of the Debtors' products over the years, the
20 Debtors' revenue and cash flow from operations has been insufficient to support their current
21 business operations as well as their continued growth. There have been many reasons for this
22 including competition, macroeconomic conditions, purchases of inventory in anticipation of
23 demand that did not occur in an unpredictable market, and higher than anticipated development
24 costs associated with the Debtors' digital training platform and increased marketing expenses,
25 partially attributable to general increases in paid advertising. It became apparent in late 2021
26 that the Debtors would require additional cash and investment to fund the Debtors' long-term
27 operations and growth, and satisfy the Debtors' secured debt obligations owed to the Bank of
28 more than \$19 million.

1 12. Pre-petition, the Debtors hired Kroll Securities, LLC (“Kroll”) and Integrity
2 Square LLC to, among other things, identify prospective investors and seek to obtain additional
3 investments in the Debtors’ business to further capitalize the Debtors and meet the Debtors’
4 operational and growth needs, or engage in a sale transaction. The Debtors’ pre-petition efforts
5 to raise capital to pay down debt or engage in a strategic merger/acquisition with/by a buyer or
6 investor did not result in a consummated transaction.

7 13. Timing and macroeconomic considerations both played a role in the Debtors not
8 consummating a pre-petition transaction. For example, while various parties expressed interest
9 in a transaction with the Debtors, those who signed nondisclosure agreements and engaged in
10 discussions with the Debtors did not ultimately proceed with engaging in a transaction. The
11 Debtors also explored potential financing arrangements and received various expressions of
12 interest.

13 14. The Debtors’ current financial situation is precarious in that we estimate that
14 unless they can consummate a transaction or obtain additional financing, the Debtors will not
15 have sufficient liquidity to replenish inventory, impairing future customer sales and thereafter
16 negatively impacting the Debtors’ good will. I believe that if there was a shutdown of the
17 Debtors’ business with a resulting liquidation, it would be a disastrous result for creditors,
18 including the Bank.

19 15. Despite these challenges, I believe that (i) the TRX brand is well-regarded and its
20 products and services have significant demand; (ii) TRX has a compelling business model with
21 significant growth opportunities; (iii) TRX is well-positioned to capitalize on growth in the
22 fitness industry; and (iv) the Debtors’ business is extremely valuable especially when
23 considering its substantial intellectual property portfolio that enables the Debtors to protect it
24 against imitators of its famous Suspension Trainer™ product and the significant goodwill it has
25 amassed with its consumers and qualified TRX trainers throughout its history. Moreover, the
26 pre-petition marketing process undertaken by Kroll and Integrity Square was designed to result
27 in a recapitalization of the Debtors’ business and was not marketed as a distressed free and clear
28 asset sale.

1 16. Based on the foregoing, the Debtors determined in the exercise of their business
2 judgment that the best option available to the Debtors would be to conduct an expedited free and
3 clear asset sale in a chapter 11 bankruptcy proceeding and consummate that asset sale before the
4 Debtors inventory falls below required operational levels and the Debtors run out of sufficient
5 liquidity to sustain operations. I believe that proceeding in this manner will afford the Debtors
6 with the best opportunity to achieve the maximum price possible for their assets for the benefit of
7 their creditors and other parties in interest.

8 17. The Debtors goal in these bankruptcy cases is to consummate a free and clear
9 asset sale for the most money possible. The Debtors intend to file in the near future a motion
10 seeking Court approval of proposed bidding and auction procedures. The Debtors will be filing
11 an application to retain Kroll (or an affiliate) to serve as the Debtors' post-petition financial
12 advisor to assist the Debtors with the Debtors' financial affairs and as the Debtors' investment
13 banker to run the Debtors' free and clear asset sale process.

14 18. The only way for the Debtors to continue to operate their business pending the
15 consummation of a free and clear asset sale is for the Debtors to be able to use their cash
16 collateral to pay their post-petition expenses. The alternative to the Debtors' use of cash
17 collateral would be an immediate shut down of the Debtors' business and termination of all
18 employees, service providers and outsourced business operations, which the Debtors believe
19 would be devastating to the value of the Debtors' assets and would result in an economic disaster
20 for all creditors, including the Bank.

21 19. The Debtors are continuing to analyze, in consultation with Kroll, whether
22 obtaining post-petition financing is necessary in order for the Debtors to have an adequate time
23 period to conduct this free and clear asset sale process and to consummate an asset sale
24 transaction. If the Debtors conclude that obtaining such post-petition financing is necessary, a
25 decision the Debtors expect to make in the coming days, the Debtors will be coming before this
26 Court seeking Court approval of such post-petition financing.

27 20. The Debtors' primary assets are comprised of accounts receivable in the
28 approximate gross amount of \$5.1 million as of the Petition Date, inventory with a cost basis of

1 approximately \$17.8 million as of the Petition Date, intellectual property and goodwill associated
2 with the Debtors' well-regarded brand, and the Debtors' vast domestic and international
3 customer base.

4 21. To support the financial needs of their growth and operations, on or about
5 December 26, 2018, the Debtors (with Product Co as borrower and Hold Co ultimately as one of
6 three guarantors¹) obtained a senior secured credit facility revolving credit facility from the
7 Bank, secured by substantially all of the Debtors' assets and property. The credit facility is
8 evidenced by that certain "Credit Agreement Dated as of December 26, 2018" as amended from
9 time to time, in the original principal amount of \$20,000,000. Based on five amendments to the
10 Credit Agreement, the credit facility is currently comprised of a term loan with a principal
11 balance of \$10,875,000, a term loan with a principal balance of \$1,000,000, and revolving loans
12 up to \$8,000,000 with a principal balance of \$7,500,000. As of the Petition Date, the total
13 principal balance of the loans made by the Bank to the Debtors is approximately \$19,375,000.

14 22. On May 16, 2022, the Bank and Product Co entered into that certain "First
15 Forbearance Agreement And Fifth Amendment To Credit Agreement" which set forth various
16 "Events of Default" and agreement by the Bank to forbear from exercising certain of its default-
17 related rights and remedies.

18 23. The Debtors have engaged in discussions with the Bank regarding, among other
19 things, the Debtors' cash flow challenges and needs, these bankruptcy cases, and the Debtors'
20 imminent need for additional funding to enable the Debtors to have a sufficient amount of time
21 to run a free and clear asset sale process designed to achieve the highest and best price for the
22 Debtors' assets. The Debtors are hopeful that they will be able to obtain the Bank's consent
23 regarding the Debtors' use of cash collateral, and have also approached the Bank to determine
24
25

26 ¹ The other two guarantors are Experience Co (a wholly owned subsidiary of Hold Co) and
27 Fitness Anywhere International, LLC (a wholly owned subsidiary of Product Co). Hold Co and
28 Experience Co became guarantors in connection with a recapitalization of TRX completed in
2020.

1 whether the Bank is willing to lend additional funds to the Debtors post-petition and, if not,
2 whether the Bank is willing to subordinate to a new lender.

3 24. The Debtors have no secured creditors other than the Bank.

4 25. In order for the Debtors to have the opportunity to attempt to consummate a sale
5 of their business/assets, the Debtors must be able to continue to operate their business, and the
6 only way for the Debtors to be able to continue to operate their business is for the Debtor to have
7 use of their cash collateral to pay for their post-petition operating expenses. Without the use of
8 cash collateral, the Debtors would be forced to immediately shut down and close their business
9 and terminate employees. Attached as Exhibits 2, 3 and 4 to the Declaration of James S.
10 Feltman are the Debtors' thirteen (13) week cash flow forecasts and cash collateral budgets
11 setting forth all projected cash receipts and cash disbursements and the projected impacts on
12 accounts receivables and inventory following the Petition Date ("Budgets"), which I have
13 reviewed, participated in the preparation of, and approve. As set forth therein, the Debtors
14 require immediate authority to use cash collateral to pay, among other things: (1) payroll in order
15 to ensure that there is no interruption or interference in the Debtors' relationship with their
16 employees (provided that any insider compensation will be subject to compliance with insider
17 compensation approval requirements); (2) key contractors, service providers, consultants and
18 vendors, in order to ensure there is no interruption in critical services being provided to the
19 Debtors and product being delivered to the Debtors; (3) logistics costs in order to ensure timely
20 receipt and delivery of products relating to the E-commerce business; and (4) insurance and
21 taxes.

22 26. The Budgets do not include any additional purchases of inventory but the Debtors
23 are requesting authority pursuant to the cash collateral motion to do so in the ordinary course of
24 business to the extent sufficient funds exist in order for the Debtors to do so, including during the
25 interim period of approval of the cash collateral motion, to the extent the Debtors determine in
26 their business judgment that doing so is necessary to avoid irreparable and immediate harm.

27 27. The Budgets incorporate all of the projected cash receipts and cash disbursements
28 of the entire business operations of the Debtors and their respective subsidiaries. As described

1 above, Hold Co holds a preferential and controlling interest in Product Co and wholly owns
2 Experience Co (which accounts for the Debtors' digital subscription-based training platform).
3 Product Co operates, manages and accounts for the TRX product lines such as the Suspension
4 Trainer™, including internationally by and through Fitness Anywhere International, LLC,
5 Fitness Anywhere Europe Cooperatief U.A. Netherlands, TRX Training Japan Co., LTD. and
6 Fitness Anywhere UK Limited. Additionally, as described above, the different entities were
7 established to allow for a segregation of the equity investment made in the recapitalization, but
8 TRX has operated as one identifiable brand in the market, and through intercompany
9 agreements, including a management services agreement between Hold Co and Product Co
10 wherein Hold Co provides the services of executive management that oversee the entire TRX
11 enterprise, it also effectively operates as a consolidated business.

12 I declare under penalty of perjury under the laws of the United States of America that the
13 foregoing is true and correct. Executed this 8th day of June, 2022, at Newport Beach, California.

14 

15 _____
16 BRENT LEFFEL
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
2818 La Cienega Avenue, Los Angeles, CA 90034

A true and correct copy of the foregoing document entitled (*specify*): **DECLARATION OF BRENT LEFFEL IN SUPPORT OF DEBTORS' EMERGENCY MOTION FOR ENTRY OF AN INTERIM ORDER: (I) AUTHORIZING THE DEBTORS TO UTILIZE CASH COLLATERAL PURSUANT TO 11 U.S.C. §§ 361, 362 AND 363; (II) GRANTING ADEQUATE PROTECTION; (III) SCHEDULING A FINAL HEARING PURSUANT TO BANKRUPTCY RULE 4001(b); AND (IV) GRANTING RELATED RELIEF** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **June 8, 2022**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Ron Bender rb@lnbyb.com
- Michael J Hauser michael.hauser@usdoj.gov
- Marsha A Houston mhouston@reedsmith.com, hvalencia@reedsmith.com
- Christopher O Rivas crivas@reedsmith.com, chris-rivas-8658@ecf.pacerpro.com
- Lindsey L Smith lls@lnbyg.com, lls@ecf.inforuptcy.com
- United States Trustee (SA) ustpregion16.sa.ecf@usdoj.gov

2. **SERVED BY UNITED STATES MAIL**: On (*date*) **June 8, 2022**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) **June 8, 2022**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

SERVED BY PERSONAL DELIVERY

Honorable Scott C. Clarkson
U.S. Bankruptcy Court, Ronald Reagan Federal Building
411 West Fourth Street
Suite 5130
Santa Ana, CA 92701-4593

☐ Service information **BY OVERNIGHT MAIL** continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

June 8, 2022
Date

Lourdes Cruz
Printed Name

/s/ Lourdes Cruz
Signature